

No. _____

①

05-418 SEP 29 2005

OFFICE OF THE CLERK

**In The
Supreme Court of the United States**

IN RE

"MICHAEL MC WILLIAMS"

Petitioner

v.

**FLORIDA STATE WORKER'S COMP.
JUDGE DAVID W. LANGHAM**

Respondents

**On Petition For A Writ Of Certiorari
To the Supreme Court of Florida**

PETITION FOR A WRIT OF CERTIORARI

**MICHAEL MC WILLIAMS
6662 HETZEL DRIVE
MILTON, FLORIDA 32570
(850)-983-0492**

Questions Presented

- 1. It is obvious the State judges have sovereign immunity but does the judges have judicial immunity or Absolute immunity or 11th amendment immunity, when there is strong evidence the judges, State entities, state officials or companies until the color of the state, acted in bad faith or conspired with the opposing party or with each other to portray the petitioner in a bad light or failed to due their public duties correctly to support the power struggle in the community or State.**
- 2. Does the Petitioner have the right in pursuant of the First Amendment of the United States Constitution and the s.5. Art.1 of the Florida State constitution to "petition the government for redress of grievances"for a civil complaint for punitive damages (Fla. State 768.72), against a State entity or official acting in Bad faith or can the judges use their gatekeeping authority to dismiss all the ultimate facts or evidence and claim anything they please with out following proper civil procedures, teir of fact, Etc...**
- 3. Does the Petitioner have the right to file a writ of certiorari in the Supreme Court of Florida or the right to file a civil complaint for punitive damages and defend himself with evidence or Ultimate facts and does the U.S. constitution and 14th Amendment guaranty those rights or the Petitioner's rights to a fear hearing and to demand relief for damages or injury.**
- 4. Does the Petitioner McWilliams (Teacher) have the right to receive a fear hearing and demand a trail by jury and does the Petitioner have the right to receive a trail by jury in the United States or can the Clerk use their authority unguided or can judges use their gatekeeping authority to dismiss all the evidence that establishes a cause of action.**

CORPORATE DISCLOSURE STATEMENT

All parties do not appear in the caption . The State of Florida will represent the worker's comp Judge. Attorney General Charlie Crist or his Assistants A.A.G. Mr Bowden III or A. Attorney general Phillip Quashnick. The Petitioner was able to keep the other 4 defendants intacted in a federal civil complaint. The other defendants were removed from this instant case because it appears or I believe the State of Florida through negligence has refuses to hear any claim against a state entity or State official or agent of the State acting in bad faith.

TABLE OF CONTENTS

	Page
QUESTIONS PRESENTED.....	i
CORPORATE DISCLOSURE STATEMENT.....	ii
I. OPINION AND ORDERS BELOW.....	1
II. JURISDICTIONAL STATEMENT.....	6
III. CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED OR STATUTES AND RULES.....	10
IV. STATEMENT OF THE CASE.....	15
V. REASON FOR GRANTING THE PETITIONS.....	21
A. There is no "executive immunity" from suit ; Fla. 768.28 and 11 th Amendment: "Tort Action Against State Officials". "The immunity of the State from suit has long been held not to extend to action against state officials for damages arising out of willful and negligent disregard of state law.".....	23
B. In general the agencies has failed to address the petitioner's civil complaint for punitive damages and demand for trial by jury. The courts have erroneously interpreted a provision of law that is inconsistent with agency rules and procedures or acted in bad faith or supported a conspiracy or Power struggle in the Community and State. Therefore passing upon a question certified to be of great public importance and to the fairness of a proceeding when agencies fail to follow prescribed procedure based on the ultimate facts.....	23
C. Does the Petitioner have the right to file a writ of certiorari in the Supreme Court of Florida.....	26.

TABLE OF CONTENTS-continued

D. Each agency's exercise of discretion was outside the range of discretion delegated to the agency by law and unconstitutional. All rules and laws of civil procedure, Due process, the first amendment of the United States Constitution and the s.5, Art.1 of the Florida State constitution allow citizen the right to "petition the government for redress of grievances" and defend himself with ultimate facts /evidence (freedom of speech).....	27
--	----

VI. CONCLUSION.....	30
---------------------	----

TABLE OF AUTHORITIES

Cases

Jenkins v. State, 385 So. 2d 1356(Fla.1980).....	18
Vigliotti V. Kmart Corparation, 680 So. 2d 466 (fla.1 st DCA 1996).....	22
Orange County MIS Dept. V Hak, 710 So.2d 998 (Fla.1 st DCA 1998).....	29
Barrett v.City of Margate,743 So. 2d 1160,1162 (Fla. 4 th DCA 1999).....	11
Pennsylvania state police v. Suder 325 f.3d 432 (2004), 325f.3d, 463.....	27
Watchtower Bible and Tract Society of New York,Inc.,et al. v. Village of Stratton et al. U.S.S.C (June17,2002).....	22.
Cantwell v. Connecticut,310 U.S. 296 (1940).....	22
STATUTES AND RULES,16	
Fla.Stat. 440.02(36).....	14,16

TABLE OF AUTHORITIES- continued

Fla. Rapp.P 9.100 (a)(b).....	14
Fla. Rapp.P 9.030(a)(5) (6),(c).....	4
U.S 28 CFR CH I 18.10 (a)(b)(1)(2)	14,22
Fla. Stat. 2004 Title X 120.68 (1) (7)(c) d) (e) 1. 2. 3. 4	13,14
Fla. Stat. ss 440.25 (e).....	15
Fla. States Constitution art, 5 section 3.(b) 1),(3),(4) (5).....	26
U.S Constitution...first,11th and 14 th amend.....	11,13
Fla.Stat. ss 768.72.....	12,19
Fla.Stat. ss 768.28.....	12,16
Fla.Stat. ss 768.295.....	10
Fla. Stat. ss 440.09.....	11
Fla.Stat. ss 440.02(32), (Supp.1994).....	11
Fla Amend.14, ss1, note 1022.	15
28 U.S.C. ss 1746	10
28 U.S.C. ss 1651.....	10
U.S. Supreme Court Rule 13.1,13.5, 30.....	10

I. OPINION AND ORDERS BELOW

The decision of the Supreme Court of Florida that gave rise to this petition is unpublished as Michael McWilliams vs. Florida Worker's Judge David Langham CASE NO.: SC05-172, Lower Tribunal No.: 1D03- 719,L.T Case No.: 2003 CA 001909, and is reprinted in the Appendix a bound herewithin. The Supreme Court of Florida May 25,2005 response to petitioner's pleading entitled Objection to the Supreme Court of Florida 5/4/05 order; the petition for writ of certiorari is dismissed for lack of jurisdiction. Petitioner's motion to Appeal the case to the U.S. Supreme Court filed with this court May 15,2005. The Appropriate court to review a decision is the U.S. Supreme Court. The Petitioner Objection to the Supreme Court of Florida 5/4/05 order and Motion to Appeal to this court was mailed May 20, 2005.

The Supreme Court of Florida 5/4/05; The petition for writ of certiorari is dismissed for lack of jurisdiction. See Art.V,Sect.3(b),Fla. Const. To the extent that the petition may be construed as seeking a writ of mandamus, it is dismissed for failure to state a claim upon which mandamus relief may be granted. The petitioner's petition for writ of certiorari was mailed February 19,2005. The Supreme Court of Florida February 18, 2005 order; Petitioner's " Response to the supreme Court of Florida's Incorrect Treatment; The above order has been treated as a Petition for Writ of Mandamus; The petitioner Michael McWilliams Petition for Writ of Certiorari" has been treated as a motion for rehearing of this Court's order dated February 1,2005 and said motion is hear by denied. Petitioner is allowed to and including March 14,2005,in which to file a proper petition in accordance with this Court's order Dated February 1,2005. The Appellant response on the 7 day of February 2005.

; Petitioner's Response to the Supreme Court of Florida's Incorrect Treatment.The Supreme Court of Florida adopting of an incorrect petition /Appeal written by the lower tribunal clerk that is incorrect. The Supreme Court of Florida enter a order on February 1,2005; Petitioner's "The Appellant Object to this court January 14,2005,order Denying the Appellant an Appeal

to The Florida Supreme Court in Pursuant of the first amendment of the United States Constitution and the s.5. Art. I of the Florida State constitution. Therefore, the Appellant will App. This court's Order Denying the Appellant above case to The Supreme court; Again," file in this court on January 28,2005, has been treated as a petition for writ of mandamus seeking reinstatement of the proceedings in the district court of appeal below.

Petitioner is allowed to and including February 21,2005, in which to file a proper petition for writ of mandamus, that complies with Florida Rules of Appellate Procedure 9.100,addressing why the proceedings in the district court of appeal should not be dismissed.

The Failure to file a proper petition with this court within the time provided..... First District court of appeals December 21,2004 order; Not having received a response to this court's order of May 25, requiring appellant to serve an amended initial brief, the above- styled cause is hereby dismissed.

First District court of appeals in Appendix b September 10,2004 order; Upon consideration of the " Appellant's Motion to Object to the District Court of Appeal's August 10 2004 order. This Court Order is incorrect, the Appellant's Appeal of the L.T. Feb. 12 ,2004 order Can All Ready be Considered an Interlocutory Appeal. The Order Fails to redress All the Issues and this Court Action's Appears to interfere with the Appellant's civil rights.

This Court Has Failed to redress the Appellant's May 6,2004,June 24, Motion that complies with an objection to this Court's May 25,2004 Order, Appellant's Enlarged initial Brief Denied: the Lower Tribunal's index is incorrect and incomplete, Therefore the appellant Motion to Supplement the record with the Omitted Evidence, Which was filed with this court on August 10,2004, appellant's motion is hearby DENIED.

First District court of appeals August 10,2004 order; The appellant has filed a motion titled "Appellant Motion to Object to the District Court of Appeal's June 16,2004 order. This court Does not have the jurisdiction to change the events in the lower tribunal and deny the Appellant's Appeal of the L.T. Original Feb.12,2004 order. This court's findings are incorrect, the appellant did not respond to a defect and the appellant objected to the L.T. Amended Feb. 4(12) order filed on May 10, 2004, which was filed with the court on June 25,2004, In this motion, the appellant appears to seek clarification and/or rehearing of this Court's June 16, 2004 order. To the extent that this motion seeks clarification, the motion is Granted, for all other purposes the motion is denied.

In the Court's order of June 16,2004,the Court allowed this appeal to proceed from the final order entered in the case on May 10, 2004, because a "premature notice of appeal shall be considered effective to vest jurisdiction in the court to review the final order." See Fla R App. P 9.110 (l). The Original entered on Feb 12,2004, is an interlocutory order which "is a part of the record for review on Appeal and becomes aspect of our appellate consideration of the final judgment." *Auto Owner Ins. Co. v. Hillsbough County Aviation Authority*,153So. 2d 722. 724 (Fla. 1963). See also Fla. R App. P 9.110 (h). Therefore,the February 12,2004, order is subject to review in the appeal. First District court of appeals May 25,2004 order; Appellant's motion filed May,6 2004 seeking leave to file an initial brief which exceeds the page limit, is denied. An amended initial brief, not to exceed 50 pages, shall be served within 20 days of the date of this order. The Amended initial brief shall cite to the record on appeal for the statements of fact. *Williams v. Winn-Dixie Stores*,348 So. 2d 829 (Fla. 1st DCA 1989). References to factual matters outside the record on appeal shall be omitted from the amended initial brief. *Thornber v. City of fort Walton Beach*,534 So. 2d 754 (Fla. 1st DCA 1988). Failure to timely comply with this order may result in dismissal of this appeal without further opportunity to be heard. Fla. Fla R App. P 9.410 .

First District court of appeals June 16,2004 order; Having considered the appellant's response to this order of April 30,2004, as well as the appellee's reply and the appellant's reply thereto, the show cause order is hereby discharged. See Fla. R. App P. 9.110(l). The order entered on May 10,2004 resolved the juridical defect in the order as originally appealed. This appeal shall proceed from the amended Order Granting Defendant Judge Langham's Motion to Dismiss Amended Complaint with Prejudice and Denying Motion for Attorney Fees, filed on May 10,2004.

The Above order was in response to Appellee/ Defendant A.A. General May 21,204 response Appendix e; Response In Opposition To Motion To File Enlarged Brief. The Appellee's May 14,2004 response; Appellee's response to Appellant's Motion to have A District Court of Appeal's Judge review This court 4/30/04 order And The Appellant's 5/7/04 response below to clarify This Court's Findings that are incomplete Or Incorrect Or the District Court Failed to Make Findings Supported by the record as set Forth in the Appeal Filed by The Appellant.

The L.T. Circuit Court Clerk May 4,2004 letter erred canceling Plaintiff's L.T. April 28, 2004 Motion below

First District court of appeals April 30,2004 order: Upon the Court's own motion, Appellant shall show cause within 10 days from the date of this order why this appeal should not be dismissed because the order being appealed merely grants a motion to dismiss and does not actually dismiss the case. See Fla. R App.P. 9.110(m):Benton v. Moore,655 So. 2d 1272,1273 (Fla. 1st DCA 1995)

Plaintiff's April28,2004 L.T.Circuit Court motion ; Plaintiff Objects and Motion to dismiss Notice of Withdraw Of Judge Langham's Motion;Motion to strike.....Plaintiff Only Agrees to the WithDraw of Defendant's Motion For Sanctions

Defendant's Judge Langham's L.T. Circuit Court April 15,2004 Notice of withdraw of.....Motion To Strike Amended Complaint... Defendant/Senior A.A.G. Bowden,III April 9,2004 ,unsigned L.T "Joint Stipulation Between Plaintiff And Defendant Judge David Langham"

First District court of appeals April 8,2004 order;

Appellant's motion filed 31,2004, is granted in part and time for service of the index to the record is extended to 30 days from the date of the order. Appellant's motion is otherwise denied. First District court of appeals April 8,2004 order; Appellant's motion to reverse dismissal order and response to the court's order of January 26,2004, are collectively treated as a order to reinstate the appeal, and are denied. In the event the lower tribunal has now entered an appealable order in the proceedings below, appellant may seek review of any such order by filing a timely notice of appeal directed thereto. In response to Petitioner/Plaintiff's Appeal of the L.T/ February 12,200order Appendix d the Appellee / Defendant A. Attorney. General sent a March 18,2004 "Motion For Sanctions" (SLAPP suit) with a 21 day notice Fla. Stat.ss 57.105(4) before filing in L.T.Appellee/ Defendant A. Attorney. General March 11,2004 "Defendant Judge David Langham's Motion to Strike Amended Complaint, or..Dismiss..; Motion to Strike Plaintiff's "Motion To Object to Parts Of Both Orders From Judge Michael Jones First District court of appeals Febuary 24,2004 order; Appellant has filed a notice of appeal in the lower tribunal without the entry the entry.....Circuit Court's February 12 ,2004 order; Order Granting Defendant Judge Langham's Motion to Dismiss Amended Complaint with Prejudice and Denying Motion For Attorney fees

Appellant December 2,2003 motion; Appellant Motion's to Postpone his Appeal/ Rendition until the Lower Tribunal furnishes the appellant with a signed order that is also Accurate With the October 24,2003 Hearing Lower Tribunal November 18,2003 Circuit Court order; Order On Defendant's Motion To Dismiss...Defendants, Escambia Charter School, AmStaff, And Judge David Lang- ham...it is: Ordered and Adjudged That the Motion to Dismiss are Granted. This cause is dismissed without prejudice. The Plaintiff has 20 days from the date of the order in which to file an Amended Complaint Appellant Response to Court orders November 7,2003 that was based on an incorrect appeal filed by the circuit clerk appealing all defendants.

First District court of appeals November 7,2003 orders Appendix c (3);Upon the Court's own motion, pursuant to Florida Rules....,Appellant is directed to file within 10 day...First District court of appeals November 7,2003 order;Appellant has filed a notice of appeal in the lower tribunal without the entry of an order of insolvency or deposit...First District court of appeals November 7,2003 order;Upon the Court's own motion, Appellant is directed to file within 10 days from the date of this order, an Amended notice of appeal which states the date of rendition of the order. Phone Call From David Langham's A.Attorney General Phillip Quashnick (Preparing Circuit Judge Jones order) reading his unprepared November 18 order over the phone to Plaintiff in Pennsylvannia on job site, Plaintiff Mailed a Motion on November 4,2003

II. JURISDICTIONAL STATEMENT

The injured teacher, Petitioner Michael McWilliams filed a writ of certiorari seeking relief because the Florida court system violated the Federal and State of Florida State civil rights laws and deprived the Petitioner his due process to receive a fair hearing with equal protection of the law against 5 State entities or State agents acting in bad faith. The Civil complaint was for punitive damages 768.72 in pursuant of 2003 Fla. Title XLV Chapter 768; under negligence. The Circuit Clerk erred in filing a premature Appeal to the First District Court of Appeal for the Petitioner. The Petitioner never received a timely Signed order from the Circuit Court 1st hearing to respond to one the District Court's 3 November 7,2003 orders.

At the 2nd hearing Circuit Judge Michael Jones, refused to redress any injury for punitive damages 768.72 in pursuant of 2003 Fla. Title XLV Chapter 768(negligence) and dismissed the OJCC with prejudice (immunity) by Order on February 12,2004; ; Order Granting Defendant Judge Langham's Motion to Dismiss Amended Complaint with Prejudice and Denying Motion For Attorney fees .